

Determination of Availability and Report of Availability Format

HEADQUARTERS, DEPARTMENT OF THE ARMY INSTRUCTIONS FOR PREPARING A REPORT OF AVAILABILITY (ROA)

Except for Section A, the ROA is a checklist. Certain questions may require the attachment of supporting information or documents. The final approved package is designed to incorporate all data necessary to complete an outgrant on the subject property and to show the issues which were considered throughout the chain of command. Flexibility is essential, yet still yielding a final product which can be staffed and finally put in the outgrant file. The ROA format is set up so that different sections can be prepared and staffed separately and signed by different Army elements, if required.

Section A is the Determination of Availability, and, although shown first, is signed after Sections B and C have been completed, reviewed and approved. Part 1, MACOM certification is only used if the ROA is not within the approval authority of the MACOM.

Section B is the general and operational information for making property available. This Section of the ROA would usually be the starting of the outgrant process. If the outgrant is the culmination of the Master Plan process, then this section would pull information from the Master Plan and installation data. If a private party has requested the outgrant or outgrant expansion, then the office which takes the request would fill in as much information as is available and submit it for further processing.

Section C contains environmental considerations. Section C would be added to the Section B by the appropriate environmental office or offices with expertise in the various areas. This section could be divided into more than one subpart if the installation organization involves several offices which each need to sign a portion.

The ROA, with attachments, will be forwarded to HQDA, if applicable, via a cover memo which states that staffing within required MACOM offices (BRAC, environmental, legal and real estate) has been completed. The FOSL and the Environmental Baseline Study (EBS) should be prepared in accordance with AR 200-1 and DA PAM 200-1. National Environment Policy Act (NEPA) documentation should be in accordance with AR 200-2. When responding to an item for which the answer is contained in a document previously submitted to the MACOM or to HQDA (in sufficient copies), clearly identify where the document is located and reference document title, date, page, paragraph, etc.

If the ROA is required to be forwarded to HQDA, and a Record of Consideration cites Categorical Exclusion A-21 based on a pre-existing NEPA analysis, then appropriate extracts from the NEPA document are to be attached to the ROA.

SECTION A

DETERMINATION OF AVAILABILITY

Part 1. MACOM CERTIFICATION

FOR THOSE ACTIONS TO BE EXECUTED BY ACSIM OR DASA(I&H):

The information furnished in Sections B and C has been fully coordinated with BRAC, if applicable, Environmental, legal, and real estate and is accurate and complete. I recommend that the Determination of Availability be approved by signing Section A, Part 2, of this ROA.

Date

MACOM Certification Authority

I have reviewed Section C, Environmental Considerations, including all attachments, and, if this is a lease action, the draft FOSL and EBS, and have determined that the environmental considerations are legally sufficient.

Date

SIGNATURE
(MACOM Staff Judge Advocate/Counsel)

DETERMINATION OF AVAILABILITY

Part 2. APPROVAL

1. Based upon the attached Report of Availability (ROA) and its findings, which have been reviewed for accuracy and completeness, I have determined that the intended use of this property as set out in the attached Report of Availability is in the public interest or promotes national defense and is consistent with delegated authorities, applicable laws and regulations.
2. I have determined that the proposed use is compatible with the installation mission and with the installation Master Plan. (INSERT IF APPLICABLE: The use will directly support or further the installation mission.)
3. (NON-BRAC) I have determined that the property is not excess to the overall installation purpose and has not been identified as not utilized in an ICARPUS.
4. The proposed outgrant action described in the ROA is approved (subject to

(INSERT ANY ADDITIONAL INSTRUCTIONS PERTAINING TO THE OUTGRANT NEGOTIATIONS OR EXECUTION AND ANY MODIFICATION TO THE ROA OR ADDITIONAL CONDITIONS WHICH MUST BE PLACED IN THE OUTGRANT DOCUMENT).

5. I determine that the property is available for the proposed use with the restrictions as stated in the Report of Availability (and as added above) and hereby authorize negotiation and execution of an outgrant in accordance with the attached ROA and applicable laws, regulations, and policy guidance.

Date

(Approving Official)

SECTION B

REPORT OF AVAILABILITY

(Installation: _____)

GENERAL AND OPERATIONAL INFORMATION

SECTION I. OUTGRANT ADMINISTRATION:

1. Name, address and telephone number of Applicant or requestor's representative(s), if any:

2. Proposed use:

3. Proposed type of outgrant:

☐ Lease

☐ For BRAC: _____ Interim Lease

_____ Lease in Furtherance of Conveyance

☐ Easement

☐ Permit or License

4. Start date, if applicable:

5. Recommended term of outgrant:

_____ years; or

_____ months.

SECTION II. PROPERTY INFORMATION:

1. General property identification. Provide sufficient information to locate the property for environmental reviews and for the USACE District to develop a legal description to include in the outgrant document. Provide legal descriptions, if available. Attach existing maps or aerial photographs. Map(s) should also be attached to the Finding of Suitability to Lease (FOSL), if a lease, showing the nearest installation boundary.

2. Acreage: _____ Of only building space is being granted, there is no acreage.

3. General character of the property (short description of the uses of the property; i.e., industrial, residential, warehouse, etc.):

4. Are Government buildings and improvements included in the area?

☐ No.

☐ Yes. If yes, identify and describe all buildings, facilities and improvements, e.g., Identification Nos., square footage outgranted/percentage of building, type of construction, and condition:

5. Existing or preceding property use (Provide a description below for each building, facility, area, etc., in either list or table format. If the overall use is the same, i.e. industrial, then a general description is sufficient.):

6. United States property interest:

- ☐ fee simple title
- ☐ easement
- ☐ in-lease
- ☐ other.

7. Is the property subject to a reversionary interest which would be violated by the proposed use?

- ☐ No.
 - ☐ Information not known. USACE District should check title documents.
 - ☐ Yes. If yes, describe:
-
-

8. Army interest:

- ☐ direct control
- ☐ permit from a Federal Agency
- ☐ withdrawn from the public domain.

9. Type of jurisdiction:

- ☐ Exclusive Federal Jurisdiction
- ☐ Concurrent Federal Jurisdiction
- ☐ Proprietary status

10. If Exclusive or concurrent, does jurisdiction need to be retroceded to allow for the proposed use?

- ☐ No
 - ☐ Yes, Explain. If a retrocession action is pending, identify the status of that effort:
-
-
-
-

SECTION III. OPERATIONAL FACTORS:

1. Will the proposed use require utilities?

☐ No. If no, go to question 2.

☐ Yes. Will Army be providing required utilities or services on a reimbursable basis?

☐ No. Are utilities, e.g. electricity, natural gas/propane/heating oil, potable water, wastewater treatment, telephone, etc., available from public utility companies?

☐ No

☐ Yes. If yes, identify the type, quantity, and provider of such services: _____

☐ Yes. If yes, identify the instrument to be used to establish the terms under which such services will be provided and the type, quantity, and estimated cost. Note that this instrument should be executed prior to execution of the outgrant.

2. Will the proposed use require destruction, relocation, modification, or replacement of Government facilities?

☐ No

☐ Yes. If yes, please explain:

3. The grant of the proposed use:

☐ a. is compatible with the operation of the installation,

☐ b. is compatible with the BRAC Implementation Plan, if BRAC,

☐ c. is compatible with contemplated development and other activities as shown in an approved Master Plan, or

☐ d. is in support of the installation mission.

4. If it is not compatible with any of the above or in support of the installation missions, please explain why the use should be approved or list the site specific limitations, restrictions, or conditions to be included in the outgrant to make the proposed use compatible, e.g., security, access, parking, hours of operation:

5. Non-Environmental Safety Issues and Concerns, if any:

6. Airfields and Airspace:

a. Will the planned use of the property affect the airspace over or near the

property or military installation?

☐ No

☐ Yes. If yes, the proposed occupancy or modification may be allowed subject to the following restrictions being incorporated in the outgrant:

☐ Yes, near the property or military installation but affecting property not owned by the United States. If yes, does the United States have a potential "taking of private property" issue? Explain.

b. Will the outgrant of the property require the notification of the FAA?

☐ No

☐ Yes. If yes, please explain who will notify the FAA and when:

c. Will structures be built on the property which will require an airspace study?

☐ No

☐ Yes. If yes, please explain who will do the study and any other requirements: ____

7. REMARKS - include any legal, policy, or mission factors you are aware of which may affect the proposed use of the property:

SECTION IV. PRELIMINARY PROCEDURES:

1. Inventory and Condition Reports: A recent inventory showing the condition of the property is available:

☐ No

☐ Yes. Give date and location of the document: _____

2. Consideration:

☐ For BRAC, less than fair market value is recommended for this action under authority of 10 USC 2667(f). Provide justification. Current estimated caretaker or operational costs are _____. Provide any specific recommendations:

☐ USACE district is requested to determine fair market value for the outgranted interest.

☐ Consideration should be collected in cash.

☐ Consideration should be in cash or in-kind as set out in the attached discussion of possible in-kind consideration.

☐ Consideration should be offset for the improvement, maintenance, protection, repair or restoration of the property outgranted, as shown in an attached offset plan.

3. Waiver of Competition:

☐ Competition is not required in accordance with AR 405-80.

☐ A waiver of competition is not recommended.

☐ A waiver of competition is recommended. Provide full justification and proposed grantee, if waiver is recommended.

4. Other applicable laws, regulations, MOA's, etc. requiring consideration for processing this action:

5. Additional information that will assist in processing this application/action:

6. Stewart B. McKinney Homeless Requirements:

☐ McKinney Act requirements do not apply to this action.

☐ McKinney Act requirements apply, necessary screening has been completed, and no interest was expressed. Give dates.

7. Estimated Costs to further process the outgrant:

USACE District costs: _____

Installation costs: _____

Funds are currently available ☐ Yes ☐ No

If No, how will costs be funded? _____

8. I certify that I have reviewed Section B, that is has been coordinated in accordance with applicable command guidance, and that it is accurate and complete. Based on the information provided above, I recommend that the outgrant be

☐ APPROVED ☐ DENIED.

Date

SIGNATURE
Title

Enclosures:

(list)

SECTION C
REPORT OF AVAILABILITY
ENVIRONMENTAL CONSIDERATIONS

1. NATIONAL ENVIRONMENTAL POLICY ACT (NEPA) REQUIREMENTS:

a. The requirements under NEPA for the proposed outgranting action have been met as follows:

☐ **CX/REC.** This action falls under one of the Categorical Exclusions (CX) contained in AR 200-2 (Environmental Effects of Army Actions). The environmental effect of the action has been considered. A Record of Environmental Consideration (REC) is attached, indicating the CX pursuant to which the proposed outgrant is authorized.

[If the ROA is required to be forwarded to HQDA, and the CX is based on a pre-existing NEPA analysis, then state:

☐ **for BRAC, NEPA document is on file at HQDA (Identify location, title and date:**

_____)
☐ **pertinent extracts are attached from the applicable NEPA analysis.]**

☐ **EA/FONSI.** The impact of this action is considered to be minimal or insignificant. The Environmental Assessment (EA) with Finding of No Significant Impact (FONSI) is:

☐ **for BRAC, on file at HQDA (Identify location, title and date:**

_____)
☐ **attached.**

☐ **EIS/ROD.** The impact of this action is considered to be significant. An Environmental Impact Statement (EIS), or supplement thereto, along with the Record of Decision (ROD) is:

☐ **for BRAC, on file at HQDA (Identify location, title and date:**

_____)
☐ **attached. (IF the EIS is too large to attach, then state where it can be viewed)**

b. For EA and EIS, identify mitigation actions, if any, which are required, costs, and responsible party for the mitigation:

c. If the EIS or EA covers more than the proposed outgranting action, explain how and where the outgranting action is analyzed and considered in the NEPA documentation:

2. COMPREHENSIVE ENVIRONMENTAL RESPONSE, COMPENSATION, AND LIABILITY ACT (CERCLA), For Leases only:

a. Environmental Baseline Study:

☐ An EBS has been conducted and no hazardous, toxic, radiological waste (HTRW) substances were identified as released, stored, or disposed on the property in the threshold quantities. Go to question 3. A draft FOSL is attached. A copy of the EBS is:

☐ on file at HQDA (Identify location, title and date: _____)

☐ attached.

☐ An EBS has been conducted which indicates HTRW substances were released, stored, or disposed on the property in the threshold quantities. Hazardous storage, disposal, or release notification must be included in the outgrant document (reference 40 CFR Part 373). A draft FOSL is attached. A copy of the EBS containing the details is:

☐ on file at HQDA (Identify location, title and date: _____)

☐ attached.

b. Choose the appropriate status of remedial actions:

☐ Remedial actions have been completed so that the property is considered safe for the proposed use.

☐ Remedial actions are not required.

☐ Remedial actions have not been completed. Estimate the time to complete such action: _____. Provide details and justification for outgranting in the current condition, if applicable. Attach any land use restrictions and access clauses that must be put into the outgrant.

3. REAL PROPERTY CONTAMINATED WITH AMMUNITION, EXPLOSIVES OR CHEMICAL WEAPONS.

a. Does the property contain ammunition, explosives or chemical weapons?

☐ No. If no, go to question 4.

☐ Yes. If yes, Reference AR 385-64, "US Army Explosives Safety Program." Has a Land Disposal Site Plan (LDSP) to clean up the property been submitted through the MACOM and HQDA, DACS-SF and DAMO-SWS, the U. S. Army Technical Center for Explosives Safety, to the Department of Defense Explosives Safety Board (DDESB) for approval before cleanup and outgrant?

☐ No.

☐ Yes. If yes, have the ammunition, explosives, or chemical weapons been removed using the most appropriate technology consistent with the proposed use of the property?

☐ Yes

☐ No. Provide date when property will be cleared: _____

b. Will access rights to implement any monitoring plan or use restrictions be required?

☐ No.

☐ Yes. Describe. (Set out proposed language to be inserted in outgrant):

c. If outgrant is to another Federal agencies for compatible use of surface de-contaminated real property, list limitations, restrictions and prohibitions concerning the use of the property, to ensure personnel and environmental protection:

4. WASTE DISPOSAL (The Solid Waste Recovery Act, as amended; Resource Conservation and Recovery Act (RCRA)).

a. Choose one:

☐ The applicant will not generate hazardous waste or will not treat, dispose or store waste defined by EPA or State with RCRA primacy.

☐ The applicant will generate hazardous waste or will produce waste defined by EPA or State with RCRA primacy. Identify all waste streams and quantities:

☐ The applicant will treat or temporary store, for less than 90 days, hazardous waste as defined by EPA or State with RCRA primacy. Identify all waste streams and quantities.

b. If applicable, choose the appropriate:

☐ The applicant has obtained a hazardous waste generator identification number from EPA. ID No.

☐ The applicant has established records, waste management requirements, and a Spill Prevention Plan.

c. Will the grantee be required to comply with an installation's Hazardous Waste Management Plan?

☐ No

☐ Yes, provide date and location of plan.

5. COMPLIANCE WITH 10 USC 2692:

☐ The applicant will not store or dispose of non-DOD toxic or hazardous materials pursuant to 10 USC 2692.

☐ Storage or disposal of non-DOD toxic or hazardous materials has been authorized pursuant to 10 USC 2692. (Attach copy of authorization).

6. UNDERGROUND/ABOVE GROUND STORAGE TANKS.

☐ There are no Underground Storage Tanks (USTs) on the property and the applicant will not be installing such tanks. Go to question 7.

☐ There are no above ground storage tanks for fuel or other regulated substances and the applicant will not be installing such tanks. Go to question 7.

☐ There are USTs on the property and/or the applicant will be installing such tanks.

a. Existing underground storage tanks are in compliance with current laws and regulations:

☐ Yes

☐ No. Explain:

b. Construction of proposed underground storage tanks have been certified for such compliance:

☐ Yes

☐ No. Explain:

☐ There are above ground storage tanks for fuel or other regulated substances on the property and/or the applicant will be installing such tanks.

a. Existing above ground storage tanks are in compliance with current laws and regulations:

☐ Yes

☐ No. Explain:

b. Construction of proposed above ground storage tanks have been certified for such compliance:

☐ Yes

☐ No. Explain:

7. CLEAN WATER ACT (FEDERAL WATER POLLUTION CONTROL ACT):

☐ This action will not involve the discharge of any pollutants into the waters of the United States or less than one million gallons of discharge per day will be made.

☐ This action will entail the discharge of any pollutants into the waters of the United States or it is more than one million gallons into the waters of the United States per day.

☐ Will the grantee's activities on the outgranted property result in a discharge of wastewater to an accumulation, collection, or drainage system?

☐ No.

☐ Yes. If yes, can the existing wastewater collection system and treatment system accommodate such discharge without adverse operational or environmental impacts?

☐ Yes.

☐ No. If not, are there other options? Describe.

☐ Has the applicant applied for or obtained a National Pollutant Discharge Elimination System (NPDES) Permit or State equivalent from the EPA/appropriate

state agency?

☐ Yes.

☐ No. If not, state whether the grantee must have a NPDES Permit or State equivalent to operate. ☐ No. ☐ Yes. If not received, state circumstances:

☐ Would the grantee's operations result in a violation of a NPDES permit or State equivalent held by the United States?

☐ No.

☐ Yes. Explain.

☐ The Grantee is complying with the requirements of a NPDES Permit and the Grantee has a monitoring and reporting procedure.

8. CLEAN AIR ACT (FEDERAL CONFORMITY REQUIREMENTS):

☐ This action does not require a written conformity determination in accordance with EPA's rule because:

☐ The installation is in an attainment area. NOTE: The EA or EIS must contain a statement that the action conforms to the applicable State or Federal Implementation Plan, if any, with adequate supporting analysis.

☐ The installation is in a non-attainment or maintenance area and the action falls within an exemption in the rule. Attach a Record of Non-Applicability (RONA) in accordance with Army Guidance. List pollutants:

☐ This action is not exempt from the conformity regulation. Attach conformity determination. Describe the mitigation requirements or other restrictions, if any, which must be incorporated in the outgrant:

9. ENDANGERED SPECIES:

☐ Coordination with the USFWS to determine the possible presence of any federally listed endangered, threatened, or candidate species in the action area has occurred (attach correspondence). Provide date of last coordination and describe results of coordination:

☐ This action will not jeopardize the habitat of any endangered, threatened or candidate species of fish, wildlife, or plants pursuant to the Endangered Species Act or a state listed species.

☐ This action may jeopardize or affect: (identify on an attached map.)

☐ a federally listed endangered or threatened species; list:

☐ a federal candidate species; list: _____

☐ a state listed species: _____

☐ designated critical habitat; describe: _____

[] This outgranting action may affect a federally listed endangered, threatened, or candidate species and required consultation with the USFWS has been completed. Attach any biological assessment, opinion, and correspondence with the USFWS. Accordingly, the following restrictions must be incorporated in the outgrant to protect the affected species and its habitat:

9. FISH AND WILDLIFE COORDINATION ACT (FWCA):

[] This action will not jeopardize fish and wildlife species or habitat integral to Congressionally authorized mitigation or General Plans, or Army agreed to recommendations in Fish and Wildlife reports prepared under the provisions of the FWCA.

[] This action will jeopardize fish and wildlife species or habitat integral to Congressionally authorized mitigation or General Plans, or Army agreed to recommendations in Fish and Wildlife reports prepared under the provisions of the FWCA. Impact description, and recommended actions prior to availability:

10. COASTAL ZONE MANAGEMENT (CZM) (if applicable):

[] CZM is not applicable.
[] CZM is applicable, and a CZM Act determination with the approved state CZM Plan has/will be obtained.

11. FLOODPLAIN:

[] This property is not located within the 100 year floodplain and does not fall under the purview of Executive Order 11988.

[] This property is located within the 100 year floodplain and does fall under the purview of Executive Order 11988 and (check the appropriate):

() The proposed occupancy or modification will not adversely impact the floodplain.

() There is no other practicable alternative available for this intended use.

() The proposed occupancy or modification may be allowed subject to the following restrictions being incorporated in the outgrant document:

12. WETLANDS:

Does the property to be outgranted contain wetlands regulated under Section 404 of the Clean Water Act (CWA) or falling under the purview of Executive Order 11990:

[] No.

[] Yes. Attach map showing wetland areas. The following restrictions must be incorporated in the outgrant document:

Does the action require a 404 Permit?

() No

() Yes. State status of Section 404 permit process:

13. HISTORICAL AND CULTURAL RESOURCES:

[] No historical, cultural, or archaeological sites or resources have been identified on this property.

[] Historical and/or cultural resources may be present on this property. This action has been coordinated with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation, if applicable, in accordance with 36 CFR 800, and not restrictions apply. (Attach relevant correspondence).

[] Historical and/or cultural resources have been identified by a survey of this property. This action has been coordinated with the State Historic Preservation Officer (SHPO) and the Advisory Council on Historic Preservation, if applicable, in accordance with 36 CFR 800. The following restrictions must be incorporated into the outgrant document to protect the property (attach any Programmatic Agreement, MOA, and relevant correspondence):

[] Native American graves have been identified on this property. (Refer to requirements of the American Indian Religious Freedom Act and Native American's Graves Protection and Repatriation Act). Consultation on the disposition of Native American graves and objects has been initiated with interested Native American organizations; correspondence attached.

[] Archaeological sites or resources have been identified on this property. Refer to the Antiquities Act; Archaeological and Historical Preservation Act; and Archaeological Resources Protection Act. The plan for curation and disposition of these resources is attached.

14. LEAD-BASED PAINT:

a. Are there improvements constructed prior to 1960 which are considered to contain lead-based paint or which have been determined to contain lead-based paint?

[] No

[] Yes. If there has been a survey, attach.

b. Are there improvements constructed between 1960 and 1978 which are considered to contain lead-based paint or which have been determined to contain lead-based paint?

[] No

[] Yes. If there has been a survey, attach.

c. Are these improvements the type that children under age seven frequently inhabit, e.g. housing, child care? [] No [] Yes, lead-based paint notice is required.

15. OTHER ENVIRONMENTAL CONSIDERATIONS:

a. Is there any Asbestos Containing Material (ACM) on the property?

[] No

☐ Yes. If yes, attach any surveys, condition and type.

b. Will the proposed outgrant activity impact an area designated under the Wild and Scenic Rivers Act?

☐ No

☐ Yes. If yes, what conditions may need to be included in the outgrant?

c. Will the proposed outgrant activity involve the use of insecticide, fungicide, and rodenticide so that compliance with the Federal Insecticide, Fungicide, and Rodenticide Act is necessary, e.g. Agricultural, golf courses, restaurants?

☐ No

☐ Yes. If yes, list:

d. Are there polychlorinated biphenyls (PCBs) present?

☐ No

☐ Yes.

e. Has a radon survey been completed for the buildings to be outgranted?

☐ No.

☐ Yes. Choose one:

☐ no buildings have radon in excess of applicable standards.

☐ the following buildings exceed standards: List with appropriate use restrictions:

f. Are there any other special-purpose environmental laws applicable to the proposed activity?

☐ No

☐ Yes. Explain:

g. Is further environmental study required?

☐ No

☐ Yes. Explain:

16. ADDITIONAL COMMENTS:

17. I certify that I have reviewed Section C, that is has been coordinated in accordance with applicable command guidance, and that it is accurate and complete. Based on the information provided above, I recommend that the

outgrant be
[] APPROVED [] DENIED.

Date

SIGNATURE
Title

18. I have reviewed Section C, Environmental Considerations, including all attachments, and, if this is a lease action, the draft FOSL and EBS, and have determined that the environmental considerations are legally sufficient.

Date

SIGNATURE
(Installation JAG/Counsel)